



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

September 21, 1995

Mr. Edward Perry  
Assistant City Attorney  
City of Dallas  
City Hall  
Dallas, Texas 75201

OR95-973

Dear Mr. Perry:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 34402.

The City of Dallas (the "city") received an open records request for all documents relating to interlocal agreements between the city and the cities of Wilmer, Hutchins, and Lancaster for the purposes of developing a satellite airport in Dallas County. You inform us that you have released some of the documents requested. You contend, however, that some of the related documents are excepted from required public disclosure pursuant to sections 552.103, 552.107, and 552.111 of the Government Code. You state that due to the voluminous nature of the request, you have submitted for our review a representative sample of the documents that you contend are excepted from required disclosure.<sup>1</sup>

Initially, we address your 552.103 argument. By your letter to our office, you state that you assume that the requestor is not seeking "access to our litigation files. If she is seeking access to our litigation files, we object to release of those files based on section 552.103 of the Texas Government Code, the litigation exception." Numerous

---

<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

opinions of this office have addressed situations in which a governmental body has received either an "overbroad" written request for information or a written request for information that the governmental body is unable to identify. See Open Records Decision Nos. 304 (1982), 87 (1975), 31 (1974), 23 (1974). In response to the request at issue here, you must make a good-faith effort to relate the request to information in the city's possession and must help the requestor to clarify the request by advising of the types of information available. Beyond these requirements, however, the city need not generate new information to comply with the request.

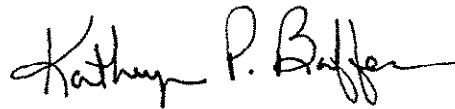
Specifically, you contend that the documents submitted as Exhibits B and C are excepted from required disclosure by section 552.111 since they contain opinions and recommendations concerning the policy or strategy in implementing a policy, the cities should pursue. *Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.-San Antonio 1982, writ ref'd n.r.e.). The scope of this exception applies only to internal communications consisting of advice, recommendations, or opinions reflecting the policymaking processes of the governmental body at issue. Open Records Decision No. 615 (1993) at 5. Section 552.111 does not except from disclosure purely factual information that is severable from the opinion portions of an internal communication. *Id.* After reviewing the three documents submitted as Exhibit B and the document dated February 17, 1995, submitted as Exhibit C that you contend are excepted from disclosure by section 552.111, we conclude that portions of these documents contain advice, recommendations, or opinions reflecting the city's policymaking functions. Some entire documents and some marked portions of other documents relate to the city's policy regarding the development of a satellite airport in Dallas County. Since some of the documents and other marked portions of documents consist of advice and opinion related to the city's policymaking decisions intended for use in the deliberative process, they may be withheld from required disclosure. The unmarked portions of the documents, however, must be released to the requestor.

You urge that section 552.107 of the Government Code excepts the remaining document submitted as Exhibit C. Section 552.107 excepts information if "it is information that . . . an attorney of a political subdivision is prohibited from disclosing because of a duty to the client under the Rules of the State Bar of Texas." Section 552.107(1) protects information that reveals client confidences to an attorney, including facts and requests for legal advice, or that reveals the attorney's legal advice. See Open Records Decision No. 574 (1990). After reviewing the document you submitted for our review as Exhibit C, dated March 23, 1995, we conclude that it is comprised of the city legal department's advice and opinion. Consequently, pursuant to section 552.107, it may be withheld from required disclosure.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records.

If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, reading "Kathryn P. Baffes". The signature is fluid and cursive, with the first name "Kathryn" being more prominent than the last name "Baffes".

Kathryn P. Baffes  
Assistant Attorney General  
Open Records Division

KPB/ch

Ref: ID# 34402

Enclosures: Marked documents

cc: Ms. Terri Hale  
Legal Assistant to Betsy Elam  
Fielding, Barrett & Taylor, L.L.P.  
3400 Bank One Tower  
500 Throckmorton Street  
Fort Worth, Texas 76102-2580  
(w/o enclosures)